

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE HERNANDEZ-SIERRA,

Defendant.

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8:04CR486

ORDER

This matter is before the court on defendant's MOTION FOR CONTINUANCE OF CONTINUE TRIAL DATE (#23). Defendant has complied with NECrimR 12.1. Upon the representation that there is no objection, I find that this continuance should be granted in the interest of justice. I note, however, that the defendant already received one substantial continuance for this same reason and I will not grant any further continuances based on the pending application for naturalization.

IT IS ORDERED that defendant's Motion (#23) is granted, as follows:

1. Trial of this matter is continued to **December 6, 2005**.
2. The ends of justice will be served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **August 30, 2005 and December 6, 2005**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act, because of defendant's pending application for naturalization based on derivative status. Failure to deny this motion might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

DATED March 14, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**